IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITIONS NO.3 OF 2005 & 28 OF 2005.

WRIT PETITION NO. 3 OF 2005.

(1)M/s. Timblo Minerals Pvt. Ltd.,
A Company incorporated under the
Companies Act, 1956 (Act 1 of 1956),
having its registered Office at
Kadar Manzil, P.B. No.34,
Margao – 403 601 (Goa).

(2)M/s. Timblo Private Limited,
A Company incorporated under the
Companies Act, 1956 (Act 1 of 1956),
having its registered Office at
Kadar Manzil, P.B. No.34,
Margao – 403 601 (Goa). ..... Petitioners.

V/s.

(1)M/s. Hardesh Ores Private Limited,
A company incorporated under the
Companies Act, 1956 (Act 1 of 1956),
having its Registered Office at
Vila Flores de Silva,
Erasmo Carvalho Street,
Margao, Goa.

(2)M/s. Sociedade De Fomento Industrial
Pvt. Ltd.
A company incorporated under the
Companies Act, 1956 (Act 1 of 1956),
having its Registered Office at
Vila Flores de Silva,
Erasmo Carvalho Street,
Margao, Goa.

(3)Shri Ramakant Rajaram Painguinkar,
major of age, Resident of Shri Damodar
Co-operative Housing Society,
Building No.2, Flat No.1,

Aquem, Margao, Goa. ..... Respondents.

Mr. S.D. Lotlikar, Sr. Advocate with Miss Kamaxi Sambari, Advocate for the petitioners.

Ms. P. Kamat, Advocate for respondent No.1.

Mr. M.S. Usgaonkar, Sr. Advocate with Mr. Sudesh Usgaonkar, Advocate for respondent No.2.

Mr. A.N.S. Nadkarni, with Mr. H.D. Naik, Advocate for respondent No.3.

WRIT PETITION NO. 28 OF 2005.

Shri Ramakant Rajaram Painguinkar,
major of age, Resident of Shri Damodar
Co-operative Housing Society,
Building No.2, Flat No.1. ..... Petitioner.

V/s.

(1) M/s. Hardesh Ores Private Limited,
A company incorporated under the
Companies Act, 1956 (Act 1 of 1956),
having its Registered Office at
Vila Flores de Silva,
Erasmo Carvalho Street,
Margao, Goa.

(2) M/s. Sociedade De Fomento Industrial
Pvt. Ltd.
A company incorporated under the
Companies Act, 1956 (Act 1 of 1956),
having its Registered Office at
Vila Flores de Silva,
Erasmo Carvalho Street,
Margao, Goa.

(3) M/s. Timblo Minerals Pvt. Ltd.,
A Company incorporated under the
Companies Act, 1956 (Act 1 of 1956),
having its registered Office at
Kadar Manzil, P.B. No.34,

Margao – 403 601 (Goa).

(4) M/s. Timblo Private Limited,
A Company incorporated under the
Companies Act, 1956 (Act 1 of 1956),
having its registered Office at
Kadar Manzil, P.B. No.34,
Margao – 403 601 (Goa).

Mr. A.N.S. Nadkarni, with Mr. H.D. Naik, Advocates for the petitioner.

Ms. P. Kamat, Advocate for respondent No.1.

Mr. M.S. Usgaonkar, Sr. Advocate with Mr. Sudesh Usgaonkar, Advocate for respondent No. 2.

CORAM : A.P. LAVANDE, J.

DATE : 4TH FEBRUARY, 2005.

ORAL JUDGEMENT :

Rule. The learned Counsel appearing for the respondents waive notice. By consent of the learned Counsel appearing for the parties, taken up for final disposal, forthwith.

2. By consent of the learned Counsel appearing for the parties, the following order is passed :

In view of the Judgment of the Apex Court in the case of ***Bipin Shantilal Panchal vs. State of Gujarat & anr.,*** ((2001) 3 SCC 1,) the observations of the trial Judge in paragraph 6 of the impugned Order are

expunged and set aside, being premature. However, all points and questions pertaining to the admissibility of evidence are kept open.

This order is passed without prejudice to any of the rights of any of the parties either to lead evidence or cross examine, as the case may be and/or to canvass further arguments.

The learned Judge shall, after full trial, at the time of final hearing, consider the evidence as well as all objections of the plaintiff and defendant No.3, in accordance with law, untrammeled by any finding or reasoning given in the impugned Order.

Petitions disposed of and Rule made absolute in the aforesaid terms.

A.P. LAVANDE, J.

ssm.